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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA and THE PEOPLE OF THE STATE OF CALIFORNIA,)	Case No. 3:18-cv-7591-CRB
Acting by and through San Francisco City Attorney DENNIS J. HERRERA,)	<u>CLASS ACTION</u>
)	PLAINTIFFS' STATUS REPORT
Plaintiffs,)	DATE: February 26, 2020
vs.)	TIME: 12:00 p.m.
)	CTRM: 6, 17th Floor
PURDUE PHARMA L.P., et al.,)	JUDGE: Hon. Charles R. Breyer
Defendants.)	

Pursuant to the Order Setting Case Management Conference in this Case (ECF No. 24), Plaintiffs the City and County of San Francisco, California and the People of the State of California acting by and through San Francisco City Attorney Dennis J. Herrera (“Plaintiffs”) hereby submit this status report in advance of the February 26, 2020 Case Management Conference.

I. INTRODUCTION AND BACKGROUND

As alleged in the complaint filed on December 18, 2018 (ECF No. 1), as amended and supplemented by the Short Form for Supplementing Complaint and Amending Defendants and Jury Demand, No. 1:19-op-45022-DAP (N.D. Ohio Apr. 22, 2019), ECF No. 33, filed April 22, 2019, Plaintiffs assert public nuisance, unfair competition, RICO, negligence, false advertising, and fraudulent concealment claims against the following defendants:¹

- The Purdue Defendants: Purdue Pharma L.P.; Purdue Pharma Inc.; The Purdue Frederick Company, Inc.; Richard S. Sackler; Jonathan D. Sackler; Mortimer D.A. Sackler; Kathe A. Sackler; Ilene Sackler Lefcourt; Beverly Sackler; Theresa Sackler; David A. Sackler; the Trust for the Benefit of Members of the Raymond Sackler Family; and Rhodes Pharmaceuticals L.P.;²
- The Teva Defendants: Cephalon, Inc.; Teva Pharmaceutical Industries, Ltd.; and Teva Pharmaceuticals USA, Inc.;
- The Johnson & Johnson Defendants: Janssen Pharmaceuticals, Inc. (formerly known as Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc.); Johnson & Johnson; and Noramco, Inc.;
- The Endo Defendants: Endo International plc; Endo Health Solutions Inc.; Endo Pharmaceuticals Inc.; Par Pharmaceutical, Inc.; and Par Pharmaceutical Companies, Inc. (formerly known as Par Pharmaceutical Holdings, Inc.);
- Insys Therapeutics, Inc.;
- The Mallinckrodt Defendants: Mallinckrodt plc; Mallinckrodt LLC; and SpecGx LLC;
- The Allergan/Actavis Defendants: Allergan plc (formerly known as Actavis plc); Allergan Finance LLC (formerly known as Actavis, Inc., formerly known as

¹ Certain of Plaintiffs’ claims are not asserted against all defendants.

² The action against the Purdue Defendants is currently stayed by virtue of their filing for bankruptcy in the U.S. Bankruptcy Court, Southern District of New York, in the case styled *In re Purdue Pharma L.P., et al.*, No. 19-23649, Adv. Pro. No. 19-08289, ECF No. 3088 (the “Bankruptcy Court Injunction”).

Watson Pharmaceuticals, Inc.); Watson Laboratories, Inc.; Actavis Pharma, Inc. (formerly known as Watson Pharma, Inc.); Actavis LLC; Allergan Sales, LLC; Allergan USA, Inc.; Warner Chilcott Company, LLC; Actavis Elizabeth LLC; Actavis Mid Atlantic LLC; Actavis Kadian LLC; Actavis Totowa LLC; Actavis South Atlantic LLC; Actavis Laboratories UT, Inc.; and Actavis Laboratories FL, Inc.;

- Hikma Pharmaceuticals plc and West-Ward Pharmaceutical Corp.;
- AmerisourceBergen Corporation and AmerisourceBergen Drug Corporation;
- Cardinal Health, Inc.;
- McKesson Corporation; and
- Anda, Inc.

Plaintiffs' claims are based on two theories. First, Plaintiffs allege that the manufacturer defendants falsely marketed prescription opioids by, among other things, representing they were minimally addictive and appropriate for use in the treatment of chronic pain. Second, Plaintiffs allege that all defendants violated their duties under the common law and those imposed by state and federal laws and federal regulations requiring them to monitor, halt, and report suspicious orders of prescription opioids.

Plaintiffs anticipate that briefing on dispositive motions will be unnecessary or substantially limited. The claims in the Ohio bellwether action were upheld in near-entirety at both the motion to dismiss and summary judgment stages of litigation, and Plaintiffs' claims here are identical or parallel to the claims asserted in the Ohio bellwether action. Plaintiffs further anticipate that briefing on discovery disputes, motions to exclude experts, and motions *in limine* will be minimized due to numerous orders on those issues entered during the course of the MDL proceedings. *See* David F. Herr, *Multidistrict Litigation Manual* §10.5 (May 2019 Update) ("The transferor court (court to which the actions are remanded) receives the cases in the condition they are in at the time of remand. Decisions that have been made in the case continue to apply unless circumstances change warranting their modification. The decisions made by the transferee court are considered 'law of the case.'"); Evidentiary Order, No. 1:17-md-02804-DAP (N.D. Ohio Dec. 26, 2019), ECF No. 3052 (same).

II. DISCOVERY

A. Categories of Discovery Still Needed

While discovery of defendants is substantially complete,³ Plaintiffs identify the following targeted categories of discovery they will require to prepare this action for trial:

- Discovery concerning sales representatives whose territory includes San Francisco and the dissemination of false marketing in San Francisco;
- Discovery concerning suspicious order monitoring (“SOM”) and diversion in and around San Francisco;
- Depositions concerning opioid-related front groups, key opinion leaders (“KOLs”), and defendants’ lobbying on opioid-related issues;
- Discovery concerning personal jurisdiction related to certain foreign defendant parent corporations;
- Expert discovery concerning San Francisco-specific analyses and opinions; and
- Ongoing production of documents produced in other opioid cases and investigations, pursuant to the MDL order that defendants remain under an ongoing obligation to produce all such documents in the MDL.

Plaintiffs anticipate that the parties will agree that the e-discovery order entered in the MDL applies to this action, or will jointly stipulate to slight modifications thereof.

B. Estimate of Time Necessary to Complete Discovery

Plaintiffs intend to initiate documentary discovery upon entry of the Court’s Case Management Order. Plaintiffs anticipate that discovery can be complete within approximately six to nine months.

DATED: February 19, 2020

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³ Suggestions of Remand, No. 1:17-md-02804-DAP (N.D. Ohio Nov. 19, 2019), ECF No. 2941 at 6.

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on February 19, 2020, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

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